

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:)	
)	
Petition by the Colorado Public Utilities)	CC Docket No. 96-45
Commission, Pursuant to 47 C.F.R.)	
§ 54.207(c), for Commission Agreement)	
in Redefining the Service Area of)	
CenturyTel of Eagle, Inc.,)	
A Rural Telephone Company)	

**SUPPLEMENT TO PETITION BY THE COLORADO PUBLIC UTILITIES
COMMISSION**

The Colorado Public Utilities Commission (COPUC) hereby submits this Supplement to its Petition for Commission agreement to redefine the service area of CenturyTel of Eagle, Inc., a rural telephone company (CenturyTel). COPUC submitted its Petition to the Commission on August 6, 2002. The Petition was deemed approved effective November 26, 2002 pursuant to 47 C.F.R. § 54.207(c)(3)(ii). On December 17, 2002, CenturyTel filed its Application for Review or, Alternatively, Petition for Reconsideration. On April 12, 2004, the Commission released its Public Notice soliciting supplemental and additional comments on a number of pending petitions, including the instant Petition. *See Public Notice*, CC Docket No. 96-45, DA 04-999 (rel. April 12, 2004), 69 Fed. Reg. 22029-02 (published April 23, 2004) (Public Notice). COPUC now affirms its request for Commission agreement to redefine CenturyTel's service area, pursuant to the provisions of 47 C.F.R. § 54.207(c).

Supplement to Petition

COPUC's Petition seeks Commission agreement to redefine CenturyTel's service area to the wire center level pursuant to the provisions of 47 C.F.R. § 54.207(c). As explained in the Petition, CenturyTel's current service area (*i.e.* its study area) comprises 53 separate wire centers. Those wire centers are, in large part, non-contiguous and spread throughout the entirety of the state. The Public Notice solicits supplemental comment regarding COPUC's Petition in light of the Commission's *Highland Cellular Order*¹ and *Virginia Cellular Order*.² In those orders the Commission articulated a new

¹ *Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 04-37 (rel. April 12, 2004).

public interest analysis and new standards for designating competitive Eligible Telecommunications Carriers (ETC) for rural areas. Those new standards are intended to apply to related proceedings, such as petitions for redefinition of rural service areas under Rule 54.207(c).

The *Highland Cellular Order* and *Virginia Cellular Order* (Orders) both concerned primarily petitions for designation as competitive ETCs in certain service areas, including rural service areas. COPUC emphasizes that its Petition does not concern ETC designation, but, rather, is a request for Commission concurrence in redefining a rural service area to the wire center level. In Colorado, COPUC has claimed jurisdiction to consider providers' requests for designation as ETCs. As such, COPUC, in specific ETC designation proceedings, undertakes the analysis required in 47 U.S.C. § 214(e)(1) and (2).

Insofar as redefinition proceedings are concerned (*e.g.* the present Petition), the Orders articulate important points: First, the Commission reemphasizes³ its concern that cream-skimming in rural areas by competitive ETCs be minimized. The Commission explained that rural cream-skimming occurs when competitors serve only the low-cost, high-revenue customers in a rural company's study area, thereby undercutting the incumbent LEC's ability to provide service throughout the area. *See Highland Cellular*

² *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 03-338 (rel. Jan. 22 2004).

³ When seeking to redefine a rural service area, a state commission and the Commission itself must consider the Joint Board's recommendations regarding areas served by rural companies. Notably, the Joint Board's first recommendation in its 1996 decision (*see Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 12 FCC Rcd. 87 (1996)) was that the potential for cream-skimming by competitive ETCs be minimized.

Order, paragraphs 26 and 39; *Virginia Cellular Order* paragraph 32. After analyzing information regarding population density in certain wire centers, the Commission refused to designate competitive ETCs to serve in those wire centers only, because such action would have allowed a competitor to cream-skim (*i.e.* to serve only the lowest-cost, highest-density wire centers). *See, Highland Cellular Order*, paragraphs 29-31; *Virginia Cellular Order*, paragraphs 35-36. On the other hand, the Commission agreed to redefine some rural study areas to the wire center level after examining population density in those wire centers and concluding that the incumbent's ability to serve its entire study area would not be undermined, and after finding that the cellular competitor intended to provide service throughout its licensed territory. *Highland Cellular Order*, paragraphs 39; *Virginia Cellular Order*, paragraphs 40 and 42.

Second, the Commission noted that concerns relating to cream-skimming are diminished if the incumbent LEC has disaggregated its high cost support. Specifically, the Commission stated that, "There are fewer issues regarding inequitable universal service support and concerns regarding the incumbent's ability to serve its entire study area when there is in place a disaggregation plan for which the per-line support available to a competitive ETC in the wire centers located in 'low-cost' zones is less than the amount a competitive ETC could receive if it served in one of the wire centers located in the 'high-cost' zones." *See Highland Cellular Order*, footnote 96. The Commission did hold that disaggregation of support will not "in every instance" protect against cream-skimming. *See Highland Cellular Order*, paragraph 32.

Hence, the potential for cream-skimming in rural service areas has been a required consideration in redefinition proceedings even prior to issuance of the Orders.

Third, in the Orders the Commission expressed concern with designating competitive ETCs to serve below the wire center level. *See, for example, Highland Cellular Order*, paragraph 33 (competitor must commit to provide supported services to customers throughout a "minimum geographic area"). The Orders held that a rural telephone company's wire center is an appropriate minimum service area for a competitive ETC. *See Highland Cellular Order*, paragraphs 33 and 37); *Virginia Cellular Order*, paragraph 40.

COPUC's Petition (for Commission concurrence in redefining CenturyTel's study area) is consistent with the points made in the Orders. As explained in the Petition, COPUC is seeking to redefine CenturyTel's study area to the wire center level. The Orders held that this is an appropriate service area for a competitive ETC in a rural area.

COPUC also reemphasizes that in this case CenturyTel has disaggregated its universal service support under Path 3 (47 C.F.R. § 54.315(d)). Prior to this disaggregation, CenturyTel received universal service support of \$29.02/access line for its entire study area. However, under Path 3 CenturyTel itself elected to disaggregate support as follows: CenturyTel assigned all 53 wire centers to one of two zones, Zone 1 and Zone 2. Seven of its lower cost wire centers were assigned to Zone 1 and receive universal service support of \$7.06/access line. (Zone 1 wire centers are La Junta, Rocky Ford, Las Animas, Lamar, Gypsum, Eagle, and Edwards.) The remaining wire centers were assigned to Zone 2 and receive support of \$43.19/access line.

In considering whether to designate a competitive ETC below a rural company's study area, the Orders placed special emphasis on population density in each wire center. The Petition presents similar information regarding CenturyTel. The average number of

access lines for CenturyTel's Zone 1 wire centers is 4,817 and 1,135 for Zone 2 wire centers.⁴

Obviously, CenturyTel's method of disaggregating its universal service support has effectively restricted, if not entirely eliminated, a competitive ETC's opportunity to cream-skim. There is now a substantial difference in the support available to potential competitors. Potential ETCs seeking to serve only low-cost, high-density wire centers will receive substantially less universal support.

Since the filing of the Petition, Western Wireless has filed an additional application for ETC status in five additional CenturyTel wire centers: Branson, Campo, Cheyenne Wells, Holly and Walsh. That proceeding (Docket No. 03A-061T) is currently before COPUC. An initial order has not yet been issued.

⁴ This information regarding support per access line and the information regarding access line density is contained in Attachment 1 to the Petition, CenturyTel's election to disaggregate support under Path 3.

CONCLUSION

For the reasons stated here and in the Petition, COPUC requests that the Commission concur with COPUC in redefining the service area for CenturyTel.

Dated, this 14th day of May, 2004.

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within SUPPLEMENTAL
COMMENTS OF THE COLORADO PUBLIC UTILITIES COMMISSION this 6th day
of February 2004, by U.S. Mail to the persons listed below.

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